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January 3, 2000

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Ms. Magalie Roman Salas  
Office of the Secretary  
Federal Communications Commission  
445 12th St., SW  
Washington, DC 20554

Re: Late Filed Reply Comments in CC Docket No. 99-301 "Local Competition and  
Broadband Reporting."

Dear Secretary Salas:

Enclosed is an original and 4 copies of a Motion to accept late-filed reply comments, and late  
filed comments of the Office of the Attorney General, State of Tennessee, regarding the above-  
named docket.

Sincerely,

*L. Vincent Williams*  
L. Vincent Williams  
*by Vance Boemel*

c: Ms. Terry Conway, Common Carrier Bureau, Industry Analysis Division  
Mr. Andre Wise, Cable Services Bureau, Policy and Rules Division  
Mr. Jerome Stanshine, Office of Engineering and Technology  
Mr. Walter Strack, Wireless Telecommunications Bureau

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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|-----------------------|---|------------------|
| In the Matter of      | ) |                  |
|                       | ) |                  |
| Local Competition and | ) |                  |
| Broadband Reporting   | ) | CC Docket 99-301 |
|                       | ) |                  |

Motion to Accept Late-Filed Reply Comments of the  
Office of the Attorney General  
State of Tennessee  
Consumer Advocate Division  
January 3, 2000

Comes the Consumer Advocate Division of the Office of the Attorney General for the State of Tennessee ("OAG") and hereby moves the Federal Communications Commission ("FCC") to accept the late-filed reply comments of the Consumer Advocate Division.

The OAG understands that the period for reply comments closed on December 20, 1999. The OAG was unable to complete its reply before that deadline. However, the OAG believes its reply comments are in the public interest and would be beneficial to the FCC's consideration. Accordingly, the OAG moves the FCC to accept its late-filed reply comments, attached hereto.

Respectfully Submitted,

Paul G. Summers  
Attorney General & Reporter

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
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Reply Comments of the  
Office of the Attorney General  
State of Tennessee  
Consumer Advocate Division  
January 3, 2000

The Office of the Attorney General and Reporter for the State of Tennessee (OAG), pursuant to the Notice of Proposed Rulemaking ("NPRM") released by the Federal Communications Commission ("FCC" or "Commission") on October 22, 1999, hereby submits these reply comments for consideration in the Local Competition and Broadband Reporting docket. On behalf of the OAG, its Consumer Advocate Division (CAD) is charged with commenting on the proposed rules which seek to implement certain portions of the Telecommunications Act of 1996 ("1996 Act").

The OAG also replies to the opposition of various parties to the Commission's tentative conclusion that the data collected will be made publicly available.<sup>1</sup> The OAG replies to the argument advanced by various commenters that disclosure of broadband penetration be limited to states rather than to geographic areas smaller than a state.<sup>2</sup>

Proprietary information, in the trade secret sense, is information no one other than the company legitimately knows, such as the company's planned location of facilities. The OAG's initial comments ask for disclosure on a county or zip code basis after installation of facilities, at which time the companies should be offering broadband services to the public. The facility's location will therefore be general knowledge in the public domain.

Moreover, the OAG believes the Commission can easily maintain confidentiality by publicizing data without attributing it to a particular service provider. For the FCC to

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<sup>1</sup> Comments of Nextel, AT&T, Bell Atlantic Mobile, Sprint and Omnipoint.

<sup>2</sup> Comments of USTA, GTE, AT&T, NCTA, ALTS and Sprint.

release data showing, for example, that 4,789 consumers receive ADSL service in Davidson County, Tennessee or in a particular zip code in the county, while 345 consumers receive ADSL service in Coffee County, Tennessee, or in a zip code in the county in no way breeches the confidentiality of the service providers, provided no attribution is made. Similarly, to say that there are 10 DSLAMs in Davidson County and 1 in Coffee County does not breach the confidentiality of the service providers when no attribution is made. We do not believe that a statement which says "Service Provider A has 115 DSLAMs in the state and Provider B has 12" captures the intent of Congress when it described advanced telecommunications deployment to "all Americans."

The primary directive is that the States and the Commission are charged with an affirmative duty to assure that all Americans benefit from the deployment of broadband services. If Congress had wanted to limit the state participation in encouraging broadband deployment, the law would not make direct reference to elementary and secondary schools, institutions clearly under the care of state government. Information by zip code is especially relevant to the state's duty of assuring impartial broadband deployment to elementary and secondary schools in rural and urban, low income and high income settings. Therefore, information allowing for intrastate deployment comparisons is vital:

"...each State commission with regulatory jurisdiction over telecommunications services shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms)..." [Telecommunications Act, 110 Stat. 56, section 706]

The Commission can directly and immediately aid States by gathering data on a geographic basis that is smaller than a state so that the unfunded mandate problem is minimized. The OAG urges the Commission to do so.

Respectfully Submitted,

Paul G. Summers  
Attorney General & Reporter

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*by Vance Bivemel*

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## CERTIFICATE OF SERVICE

I hereby certify that this document was served on parties of record by U.S. Mail or by Federal Express this 3<sup>rd</sup> day of January, 2000.

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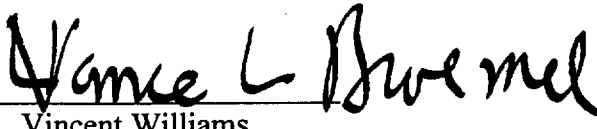
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